

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-cv-0210-RBJ

LIST INTERACTIVE, LTD., d/b/a UKNIGHT INTERACTIVE,
Plaintiff,

vs.

KNIGHTS OF COLUMBUS, and
DAVID J. KAUTTER, IN HIS OFFICIAL CAPACITY AS (ACTING)
COMMISSIONER OF THE INTERNAL REVENUE SERVICE,

Defendants,

KNIGHTS OF COLUMBUS,

Counterclaim Plaintiff,

v.

LIST INTERACTIVE, LTD., d/b/a UKNIGHT INTERACTIVE,
LEONARD S. LABRIOLA,
WEBSINC. COM, INC.,
STEPHEN S. MICHLIK,
JONATHAN S. MICHLIK, and
TERRY A. CLARK,

Counterclaim Defendants.

REPORTER'S TRANSCRIPT
(Discovery Conference)

Proceedings before the HONORABLE R. BROOKE JACKSON,
Judge, United States District Court for the District of
Colorado, commencing at 2:01 p.m., on the 13th day of May,
2019, in Courtroom A902, United States Courthouse, Denver,
Colorado.

APPEARANCES

G. STEPHEN LONG, BLAINE K. BENGTON, and CHRISTOPHER S. MILLS, Jones & Keller, PC-Denver, 1999 Broadway, Suite 3150, Denver, Colorado 80202, appearing for the plaintiffs.

EDWARD A. GLEASON, Lewis Roca Rothgerber Christie, LLP-Colorado Springs, 90 South Cascade Avenue, Suite 1100, Colorado Springs, Colorado 80903, and
HERMINE KALLMAN, Lewis Roca Rothgerber Christie, LLP-Denver, 1200 17th Street, One Tabor Center, Suite 3000, Denver, Colorado 80202, appearing for the defendants.

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P R O C E E D I N G S

(Call to order of the court at 2:01 p.m.)

THE COURT: 17-cv-210, List Interactive versus Knights of Columbus. Appearances, please.

MR. LONG: Yes, Your Honor. For the plaintiffs -- for the plaintiff, Steve Long, and my colleagues, Chris Mills and Blaine Bengtson.

MS. KALLMAN: Good afternoon, Your Honor. Hermine Kallman here with my colleague Ed Gleason for Knights of Columbus.

THE COURT: Thank you. All right. We have a discovery dispute. What is it?

MR. LONG: Yes, Your Honor. If I might, I wanted to describe for the Court why we're here and what we're seeking and why it's so critically important. It may take a few minutes and I -- and I don't want to overstay my

1 welcome, but on each of those subjects, I probably, if the
2 Court would permit me, would speak about three to five
3 minutes. And so I'm going to go forward, if I might, and
4 discuss first the reason that we're here.

5 Your Honor knows quite well, I'm sure, that Your
6 Honor's had to deal with the -- what has been called the
7 membership data and membership fraud issue for some time,
8 and has issued a number of orders. We've reviewed the
9 record very, very carefully.

10 The most recent development that brings us here
11 today is on the eve of Mr. Csajaghy -- who was counsel just
12 before us -- withdrawal from the case, he had entered into
13 an understanding or an agreement with the Knights of
14 Columbus counsel in which they would deal with the second
15 prong of the Court's order. The Court's order that they --
16 the parties were acting on -- that counsel were acting on at
17 that time, ordered first that the membership coupons that
18 were available from the national organization would be made
19 available. Those were produced in the summer of 2018. And
20 they were then trying to deal with the second prong, which
21 was where the Court said -- and the Court's language I think
22 became critically important -- that UKnight could obtain
23 from the financial secretaries of each of the councils the
24 information pertaining to the membership cards that they had
25 issued in 2017. The thought being that they could compare

1 what the council said their membership -- active membership
2 roles were compared to what the membership coupons from the
3 national organization showed.

4 And it is that language that the Court entered in
5 its order that became the bone of some significant dispute
6 between Mr. Csajaghy and the defense counsel. Eventually it
7 was agreed -- and Mr. Csajaghy did agree, I can -- I will
8 tell the Court that -- that he did agree that he would send
9 a letter. He asked that both counsels would sign the
10 letter, but the Knights of Columbus counsel insisted that it
11 be just him, asking that the financial secretaries provide
12 the information without making reference to the Court order.

13 And indeed --

14 THE COURT: Not making reference to what?

15 MR. LONG: The Court's order. In other words, not
16 saying "pursuant to a court order." Just simply make the
17 request of the financial secretaries. And, Your Honor --

18 THE COURT: Why is that a big deal?

19 MR. LONG: I don't know that it is a big deal. All
20 I know is what happened and that's why we're here. What
21 happened was of the 10,000-plus councils, only 96 responded.
22 And, of course, it's very difficult to obtain anything, to
23 conclude anything, based upon 96 councils out of
24 10,000-plus.

25 And -- but what those 96 councils did show, Your

1 Honor -- we did get that information, it came in as Mr.
2 Csajaghy was withdrawing, and one of our tasks that we've
3 attempted to perform was to assess those 96 councils and
4 compare them to the membership coupons. What we found in
5 the aggregate is that the national roles were overstated
6 with regard to those 96 councils by 25 percent. And --

7 THE COURT: How does this relate to the case as it
8 has evolved?

9 MR. LONG: Yes, sir.

10 THE COURT: There was a RICO claim back then; there
11 isn't anymore.

12 MR. LONG: No, there's not, but this is how it
13 relates to the case, Your Honor. So, the length -- the
14 relevance to the case is that we have essentially three, I'm
15 going to say, groups of claims for simplicity. We have a
16 contract claim, we have a tort interference claim, and we
17 have a trade secret claim.

18 The contract claim -- we also have a fraudulent
19 misrepresentation and negligent misrepresentation, which,
20 really, it falls into the same category as the tort
21 interference claim. But basically what happens is, is the
22 reason or the motivation for the Knights of Columbus either
23 not performing under the contract or interfering with the
24 reasonable business expectancies of the plaintiff, or that
25 they appropriated the trade secret claim, all go to this

1 question of: What happens if we move forward with UKnight?

2 And the evidence that we've now developed, since we
3 entered the case, through document analysis and deposition,
4 is that what clearly happens is that everyone in the
5 organization -- local level all the way to the top -- are
6 able to ascertain the very information that plaintiffs'
7 counsel before us has been trying to get this Court to --
8 to -- to require be discovered.

9 THE COURT: I did require it.

10 MR. LONG: Yes, Your Honor, you did, and it did not
11 happen. And I suggest -- I say to the Court that I do
12 understand that Mr. Csajaghy agreed to this process which,
13 in our view predictably, when you, I think, parse the
14 Court's words "to obtain," "UKnight may obtain," meaning
15 UKnight's counsel may write a letter and try to obtain this
16 information --

17 THE COURT: That's exactly what I said. There's no
18 parsing required.

19 MR. LONG: Well, the question, Your Honor, is:
20 Who's asking for it? And I think with the -- with the prior
21 communications that went out, where it made -- the Knights
22 of Columbus made very clear that there was not to be
23 cooperation -- this is previously, those were retracted, I
24 acknowledge that, Your Honor -- but it's -- but I don't
25 think these councils would -- these financial secretaries

1 would respond. And, indeed, what I've learned, Your Honor,
2 that causes me great concern to be here, is we now have had
3 testimony since we entered the case that the financial
4 secretaries, not -- they are not independent. They're
5 appointed by the national group, the Supreme Knight, and
6 they are directed by the Knights of Columbus' home office.

7 The Knights of Columbus, if they really wanted to
8 get the financial secretaries' information, all they have to
9 do is ask for it because they work at their pleasure.
10 And -- and -- that is one of the things we're asking the
11 Court to do now, is to direct that the Knights of Columbus
12 ask the financial secretaries to provide a certified and
13 accurate copy of what their membership roles show at the
14 local level, so that that 25 percent exaggeration -- let's
15 see if that holds true throughout all of the councils, the
16 10,000 plus, not just the 96, who, for whatever reason,
17 decided to respond.

18 And --

19 THE COURT: You want the Knights of Columbus to ask
20 the financial secretaries --

21 MR. LONG: Yes, Your Honor. To make the request,
22 rather than plaintiffs' counsel, for an accurate --

23 THE COURT: And this is 2017 --

24 MR. LONG: Yes, Your Honor.

25 THE COURT: -- membership information. So the

1 Court's order wasn't good enough?

2 MR. LONG: Your Honor, I think it was fine, but for
3 whatever reason, it -- it's got its information. I mean, we
4 now know that at least 96 demonstrated what we are saying.
5 We also learned out something else that's very important,
6 Your Honor, because of Your Honor's order: We discovered in
7 the membership coupons phantom councils. And I know that
8 Your Honor's heard that phrase, but up until now, I'm not
9 aware of any evidence that could be shown to the Court, but
10 I have evidence now. I have phantom council from membership
11 coupons where you have a council with no address, indicating
12 its location is the home office, in one case with 2,585
13 members, with no financial secretary, nothing.

14 And we now have testimony from -- we've been
15 taking -- actively taking depositions, Your Honor. And we
16 now have sworn testimony from field agents and -- or, excuse
17 me, from general agents that, indeed, these phantom councils
18 are used to move people from the local council when the
19 council complains about the fact that they're required --
20 that council's required to pay membership dues. And so the
21 existence of these phantom councils clearly overstates the
22 membership of this organization.

23 THE COURT: Okay. What's your second request?

24 MR. LONG: Second request, Your Honor, is that the
25 Knights of Columbus be required to provide us with a list of

1 all of the data fields in the national database pertaining
2 to membership. Now, Your Honor, I was frankly flabbergasted
3 when I saw what now we've come to learn through sworn
4 testimony is what is actually available in the database at
5 the national headquarters.

6 At the national headquarters, they have -- and we
7 don't need any information pertaining -- we're not asking
8 for the disclosure of any particular data, just what are the
9 fields, and let's discuss amongst counsel, can we agree that
10 these fields do not involve personal identifiers?

11 We can use membership numbers, we don't have to use
12 a name; we don't have to have addresses. But there is data
13 in those fields which shows when, say, member 1172 became a
14 member, what his birthday is, which is important because
15 we've also discovered people are being carried as members
16 who are 110 years old.

17 And -- and so it -- the fact is I think what --
18 we've got an expert who's going to be entering -- Wednesday,
19 Your Honor, is our expert disclosures and we do have four
20 experts, and one of those is a PhD statistician who thinks
21 that with the database, once we know what the fields are,
22 that we can make requests of nonpersonal data and be able to
23 make some inferences as to what the level of exaggeration
24 is; a way to sort of make sure that the request we're asking
25 the Knights of Columbus to make of the financial secretaries

1 is actually something that we can get to where we need to
2 be.

3 Third, Your Honor, we're asking for the -- and I do
4 respect that discovery's closed -- but I think in light of
5 what we've learned, like to have the annual report of the
6 auditor which is made to the Knights of Columbus board of
7 directors for the -- for the last two years, 2017 covered
8 and 2018 covered, which we've also retained a retired
9 regulator from, it turns out, the Nebraska Insurance
10 Regulatory Agency, who is helping us understand the
11 significance of, for example, what that audit report is
12 going to show as it relates to this membership data.

13 Also in the last three years, we're asking that the
14 Knights of Columbus be required to produce to us management
15 reports and presentations made to the board concerning
16 membership data. The Knights of Columbus represents to the
17 rating agencies and to the regulators that their membership
18 is 1.9 million. I know that's a number Your Honor has
19 heard. If we're right and the evidence that we're starting
20 to see is suggesting it, if we're right that that may be off
21 by 20 to 40 percent, the former insurance regulator that
22 will be issuing her report on Wednesday has -- will indicate
23 in there that -- that it would be of significant concern to
24 both the regulators and to the rating agencies.

25 And, Your Honor, I guess I didn't fully appreciate

1 the -- the materiality to the vitality or viability of the
2 Knights of Columbus of this information, which I believe is
3 the reason that they decided to resist this and hope that
4 the Court doesn't require it.

5 We also would like -- finally, Your Honor, we would
6 like a 30(b)(6) of the Knights of Columbus. We have now
7 taken virtually all of the depositions that we asked for -- and
8 the Knights of Columbus have been taking depositions as well, so
9 there is still plenty of time -- I'd like to be able, once
10 we get the membership coupon and financial secretary issues
11 resolved, I'd like to be able to ask the corporation about
12 their retention and billing practices and to get some
13 explanation of some of the things we see in their coupons.
14 So that would be -- that would be our next request.

15 And, finally, Your Honor, I'd like to take several
16 depositions of fact witnesses who my office has interviewed.
17 And these are people who have direct information about what
18 I would describe to be the national roles being exaggerated
19 and the local councils' efforts to try and get the national
20 roles in line with what the actual membership is.

21 And they -- the witnesses are Greg McFee, who is in
22 Alabama, who contacted us recently; Joseph Hernandez, who is
23 in -- is it Texas? -- is in Texas, who we have recently
24 interviewed just last week -- actually probably about 10
25 days ago; and Paul Pluskowski -- P-l-u-s-k-o-w-s-k-i, in

1 Arizona; and, finally, Tino Martinez, who is in Pueblo,
2 Colorado.

3 It will be our purpose to take these depositions
4 for purposes of trial. Some of it would be -- may be
5 cumulative, and it may be that we only end up using one or
6 two but I would like to have permission -- because some of
7 the testimony I believe will overlap, but I would like to
8 have that -- these will be short depositions, Your Honor.

9 THE COURT: These are people that won't cooperate
10 and come to trial and testify?

11 MR. LONG: I think that -- I think that's possible
12 to do that. I -- and maybe I'm being overly cautious, Your
13 Honor. My experience has been that it's -- when you have
14 somebody, for example, in Alabama, the gentleman in Alabama
15 did tell me he would come, and we don't have to make him;
16 and I fear if we're in trial and I think his testimony's
17 important, at least I want to have that back-up if I can.
18 That's all -- so maybe I'm being overly cautious. I -- but
19 I do think they will come. I just don't know if I should
20 rely on that.

21 THE COURT: Well, you said discovery has been
22 closed.

23 MR. LONG: Yes, Your Honor. I do recognize that.
24 That's why I'm asking for leave.

25 THE COURT: Okay. All right. Thank you.

1 All right. Ms. Kallman, what is wrong with what
2 he's asking for? Keeping in mind that it's been like
3 pulling teeth getting information out of the Knights of
4 Columbus from day 1.

5 MR. LONG: I don't disagree, Your Honor.

6 THE COURT: All that has done to me is make me
7 wonder if there's something there. We start out with this
8 fanciful RICO case, but as time goes on, and the Knights of
9 Columbus continues to be obstreperous, in my view, it makes
10 me wonder what's going on.

11 MS. KALLMAN: If I may, Your Honor.

12 THE COURT: So what is going on?

13 MS. KALLMAN: Happy to tell you. First of all, I
14 think that is exactly the purpose of this hearing, or
15 partially, is to create the impression that the Knights are
16 being obstreperous and --

17 THE COURT: I had that impression well before
18 today.

19 MS. KALLMAN: I have no doubt because counsel has
20 been good at creating that impression. But if the Court
21 would indulge me, I would like to walk back the story -- the
22 history of this -- of this dispute.

23 However, I want to start out by saying we have
24 complied with March -- as far as it is our position and
25 the -- frankly, I haven't heard anything from counsel

1 articulating otherwise -- we believe we have complied fully
2 with the Court's March 20th, 2018, order to produce the
3 membership information that the Court ordered to be
4 produced.

5 THE COURT: You think 96 of 10,000 is compliance?

6 MS. KALLMAN: Well, let's talk about it, Your
7 Honor. The -- as -- as Your Honor, yourself, said, the
8 question was two parts. Mr. Vail here -- February 6th,
9 2018, there was a hearing and Mr. Vail stood up here and
10 Your Honor very pointedly asked: What is it that you want,
11 counsel?

12 Mr. Vail said: Two things, Your Honor. First, I
13 want the payment coupons that Knights of Columbus sends to
14 its councils, basically what it shows the number of members
15 on which Knights of Columbus expects each council to pay
16 this so-called per capita fee. Mr. Vail had a sample on the
17 screen and he -- that's what he confirmed he wanted from us.

18 Your Honor ordered us to produce and in -- on June
19 14, we produced almost 10,000 of those. And then we can
20 talk about timing in a moment if the Court would let me.

21 THE COURT: But even there, it's -- it wasn't until
22 I ordered it that you produced it.

23 MS. KALLMAN: I'm sorry, Your Honor? I didn't
24 catch that.

25 THE COURT: I said even there, it wasn't until the

1 Court ordered it that the Knights produced it.

2 MS. KALLMAN: Absolutely. But here is the
3 question -- here is the -- Your Honor, and I have spent a
4 lot of time, we have the transcripts of every single
5 hearing. The question has kept changing or the request from
6 UKnight has been changing.

7 THE COURT: Well, I'm with you on that. It's been
8 a moving target from day 1.

9 MS. KALLMAN: So the first time this idea of
10 payment coupons came up was the February 6th, 2008 -- I'm
11 sorry, 2018 hearing. And no questions, the Court ordered,
12 we produced.

13 Before that, if you -- if the Court would like to
14 discuss what happened before that, I'm happy to, but
15 UKnight's counsel was asking for 1.9 million -- at least of
16 1.9 million members and names. I have a portion of that
17 transcript here from that hearing --

18 THE COURT: Okay.

19 MS. KALLMAN: -- and as the Court knows, Knights of
20 Columbus -- and we stand by that as concerns about
21 disclosing our member's identities -- which is how we ended
22 up in February 6th. But the ask changed. Asked for payment
23 of coupons; produced.

24 Second piece is not as simple as it may sound,
25 right? Mr. Vail said -- and, by the way, again, every time

1 this conversation has come up with the Court or with
2 counsel, it has been UKnight's position that UKnight will
3 go -- has all these contacts with local councils whom
4 they've been talking to, and will take our payment coupons,
5 call up the councils, and verify the information to see if
6 those numbers that they claim are not matching, whether they
7 match or not.

8 The fundamental theory, the way we understand
9 this -- and if the Court would let me I would like to
10 respond to counsel's relevance argument in a moment -- but
11 the fundamental theory, the way we understand it, is this:
12 Knights of Columbus maintains role of members on which it
13 requires councils to pay per capita fees.

14 Councils -- and there are 10,000 of them in the
15 U.S. alone, roughly 10,000, in the U.S. alone maintain their
16 own roles of who's actually paying members, who actually
17 paid their dues, and got the membership card issued as a
18 result.

19 The theory, the way we understand it, is that those
20 two numbers don't match. The Knights of Columbus asked
21 basically the councils to pay more per capita fees than
22 there are active dues-paying members on the financial
23 secretaries' roles. Fair enough. Let's go with that --
24 with that story.

25 That second piece of information by definition,

1 Your Honor, is in financial secretaries in local council's
2 possession. And that's been always the -- I don't think
3 there's been any dispute about that from at least prior
4 counsel of UKnight. And Mr. Vail previously said, and I
5 reviewed the transcript, and I'm happy to point the Court to
6 a couple of points in those transcripts is, again: Your
7 Honor, I want these numbers from the Supreme -- or the
8 Knights of Columbus, the headquarters, to call the local
9 secretaries -- or the financial secretaries of local
10 councils and compare those numbers to prove this theory of
11 discrepancy, or otherwise what they call this membership
12 fraud. Now, it's 10,000 councils in U.S. alone.

13 The -- Your Honor issued the order March 20th,
14 2018. March 21st, we were on the phone with Mr. Vail
15 talking about the logistics of how that information is going
16 to be collected. Mr. Vail -- and we have notes basically
17 taken from that call -- Mr. Vail said, "How about a survey
18 monkey?" Sorry, I know it sounds strange. It's basically
19 an electronic survey --

20 THE COURT: Yes, I know what a survey monkey is.

21 MS. KALLMAN: Great, perfect. So his thought was,
22 and we didn't disagree, that that made the most sense, is
23 send e-mail to 10,000 councils with a link that they can
24 click, enter information, hit submit -- as Your Honor
25 probably has done, as we have done -- and in one place all

1 of that information gets collected.

2 We said, Great. Sounds like a -- makes sense to
3 us. And he said he would give us a proposal. And we had
4 the follow-up call about that issue as -- in addition to a
5 few others, on May -- on March 27th, 2018. As Your Honor
6 knows, Mr. Vail withdrew -- was -- got sick and then
7 withdrew shortly thereafter. The case went -- was stayed.

8 End of May, I believe May 31st, second set of
9 counsel entered appearance. Literally a couple of days
10 later, had a call with them. Again, we have this thing
11 outstanding, the order from the judge, what are we doing?

12 This is what we had understanding with Mr. Vail.
13 We produced to you the payment coupons. And I think I --
14 all agreed -- that U.S. is sufficient, just U.S. only as
15 opposed to worldwide -- worldwide and -- and U.S. only was
16 about 10,000. And we will -- let's talk about this survey
17 idea.

18 Counsel did not say, "This is -- no, no survey."
19 Did not say, "That's not what we want to do." Did not say,
20 "It's your responsibility to go get that information from
21 third parties, i.e., financial secretaries, collected, and
22 give it to us."

23 Agreed that survey made sense and frankly, Your
24 Honor, we suggested another option. We said,
25 "You're welcome to send letters to all of these councils

1 because their address is on the payment coupons."

2 THE COURT: He's not asking for much. He's asking
3 for the Knights of Columbus to tell the financial
4 secretaries to comply. That's all he's asking.

5 MS. KALLMAN: Your Honor -- and I'm getting there.
6 I apologize. I know it seems a little long-winded. I'm
7 getting there. So counsel --

8 THE COURT: Why don't you get there right now
9 because I don't have all afternoon.

10 MS. KALLMAN: Fair enough. I believe counsel made
11 one comment that I know -- I don't think that's quite
12 correct. We worked together on the e-mail that would get
13 sent to financial secretaries that says, "There's
14 currently -- the UKnight is currently involved in a lawsuit
15 with Knights of Columbus. In that lawsuit, the Court
16 granted UKnight permission to obtain a number of membership
17 cards. Please fill out and return the enclosed form within
18 10 day." That was the message that each financial secretary
19 received.

20 THE COURT: And only 96 out of 10,000 complied?

21 MS. KALLMAN: Only 96 responded. One more detail,
22 Your Honor: Some councils wrote to the headquarters, to the
23 supreme council, and said, "I received this survey. I don't
24 know what to do about it."

25 We brought that to attention -- to the attention of

1 prior counsel and agreed and we responded to each of those
2 questions, "Please go ahead and respond to the survey." I
3 did it myself, Your Honor. I have those e-mails.

4 THE COURT: But they didn't.

5 MS. KALLMAN: Some did, I believe, some didn't.

6 THE COURT: So you've either got the laziest or the
7 dumbest financial secretaries, or they've gotten the
8 impression one way or the other that it would be better not
9 to respond.

10 MS. KALLMAN: Perhaps, Your Honor.

11 THE COURT: So what do I have to do to get them to
12 respond?

13 MS. KALLMAN: Well, here -- that's the question
14 here. So --

15 THE COURT: I can think of one thing.

16 MS. KALLMAN: Well --

17 THE COURT: I can tell the Knights of Columbus that
18 I'll enter a default judgment against them if financial
19 secretaries don't respond. Now, is that going to take
20 that --

21 MS. KALLMAN: No, Your Honor, it doesn't need to
22 take that. Here is the question: We're still dealing
23 with -- I think we need to understand what exactly -- does
24 the counsel want, or Your Honor would order us to do, what,
25 send an e-mail to financial secretaries and say, "Submit

1 this information"?

2 Let's go with that first. There are practical
3 realities in collecting this data. Are they submitting that
4 information to us, are they sending it to UKnight, to
5 UKnight's counsel, in what form, in what format? Which is
6 why the survey suggested by Mr. Vail.

7 We can pick up the phone and call 10,000 councils
8 and say, "Please submit the information." The question
9 still remains: In what format, who's going to send, who's
10 going to collect, who's going to submit?

11 And, Your Honor, I have to say, what they -- they
12 have accused us of fudging numbers. Now what we hear is we
13 should collect the numbers -- the very numbers --

14 THE COURT: They haven't accused you of anything,
15 Ms. Kallman, they've accused your client.

16 MS. KALLMAN: Well, I represent my client here
17 today, so --

18 THE COURT: Yes, but there's a difference between
19 you and your client.

20 MS. KALLMAN: Your Honor, I --

21 THE COURT: Your client's the one that's going to
22 be in big trouble if they don't comply with discovery.
23 Probably you won't.

24 MS. KALLMAN: I fully appreciate that, Your Honor.
25 I'm just trying to understand what exactly -- how exactly,

1 what -- it's one thing to say comply, another to say how.
2 We're trying to figure out the how --

3 THE COURT: You had discussion with Mr. Jones,
4 what -- or Mr. Long, what does he say?

5 MS. KALLMAN: We tried.

6 THE COURT: Well, you tried.

7 MS. KALLMAN: We tried. And we don't -- still
8 don't hear what it is that they suggest we do.

9 THE COURT: Okay. Well, let's have you hear then.

10 Mr. Long, tell Ms. Kallman, whose hearing
11 apparently needs to be supplemented with a little hearing
12 aid, what it is you want them to do.

13 MR. LONG: Okay. I will be happy to, Your Honor.
14 We did confer, and this was -- in this list that I've just
15 give --

16 THE COURT: Well --

17 MS. KALLMAN: I --

18 THE COURT: She's got hearing problems, so let her
19 hear what it is.

20 MR. LONG: Okay. So No. 1, Your Honor, if I may --
21 does the Court want me to proceed and tell her what I was
22 asking for?

23 THE COURT: Yeah.

24 MR. LONG: Okay. No. 1, we are asking the Court --
25 that the Court enter an order directing the Knights of

1 Columbus to obtain from the financial secretaries accurate
2 and certified information about the number of memberships
3 cards issued in 2017.

4 No. 2 --

5 MS. KALLMAN: Your Honor, if I may stop, because
6 that's the only issue I believe right now under the
7 consideration. How? I would like to hear the Court -- the
8 counsel articulate how we obtain that information. It
9 sounds trivial, but it's not. How do we collect 10,000 --
10 information from 10,000 councils spread all over the U.S. in
11 a format that makes sense that will be acceptable to
12 UKnight?

13 THE COURT: The reason that it's a big problem is
14 because the Knights have decided that they want 10,000
15 council. But if that's their decision, if that's their
16 business model, then they've got to have a way to get the
17 information out of those 10,000 councils.

18 MS. KALLMAN: The information that we get from them
19 is in the payment coupons. Now UKnight has alleged that
20 there's something else.

21 THE COURT: No, it's not. It's not in the coupons.
22 It's their membership information. I don't get what the
23 problem is. You're not persuading me at all.

24 MS. KALLMAN: Your Honor, let's say today what
25 counsel said, go and obtain the information. And I -- and

1 like I said, if the Court said, "Go call 10,000 councils and
2 write down on the number they give you over the phone,"
3 that's what we will do. If the Court says, "Go send them
4 e-mail and tell them to e-mail you back a number," that's
5 what we will do.

6 But we did -- and by the way, we, through extensive
7 discussions through UKnight's counsel, as officers of the
8 court, we discussed the process of how to comply with the
9 order. We did what everybody agreed on. And if the result
10 wasn't satisfactory, I understand that.

11 THE COURT: 96 of 10,000 is nonsense --

12 MS. KALLMAN: Fair enough, Your Honor.

13 THE COURT: 96 of 10,000 has me thinking about a
14 default judgment. I don't think making 10,000 phone calls
15 makes a whole lot of sense.

16 MS. KALLMAN: Well, that's what we --

17 THE COURT: It makes more sense to do it by e-mail
18 or some mass communication. But what it's got to say in
19 some combination of words is, The Court has ordered that you
20 do this and if you do not, the Knights of Columbus is
21 looking straight down the barrel of a default judgment gun.

22 Now, maybe that will get the Knights and the
23 financial secretaries' attention.

24 MS. KALLMAN: Your Honor, the --

25 THE COURT: I don't know how else to say it; how

1 else to do it.

2 MS. KALLMAN: No -- I think we have done all of
3 the -- all of what Your Honor just said except for the part
4 of, "If you don't do this, there will be default judgment."
5 Fair enough. That language was not in the communication
6 that went to the councils. That was not, fair.

7 But what's there is "The Court has ordered; please
8 click, please produce, please certify those numbers."

9 THE COURT: Well, maybe the word "please" doesn't
10 work with your financial secretaries. Maybe --

11 MS. KALLMAN: Maybe, Your Honor.

12 THE COURT: Maybe something stronger is needed.

13 MS. KALLMAN: These are third parties, so we're
14 talking about third-party discovery --

15 THE COURT: Sort of third parties, but these
16 council are very closely connected to the Knights of
17 Columbus.

18 MS. KALLMAN: We don't deny that, Your Honor. We
19 don't deny that. We are trying to come up with a way to
20 collect information from 10,000 parties.

21 THE COURT: What's wrong with what I just gave you?

22 MS. KALLMAN: Nothing wrong with it, Your Honor.

23 THE COURT: Okay. Is that satisfactory to you?

24 MR. LONG: Yes, Your Honor. We will be happy to
25 prepare something, have counsel look at it.

1 THE COURT: So ordered.

2 MR. LONG: We'll do that. Thank you, Your Honor.

3 THE COURT: Let's talk about the second issue.

4 MR. LONG: Yes, sir.

5 MS. KALLMAN: If I may answer, I think I -- the
6 second issue, the way I wrote down -- and Mr. Long will
7 correct me if I'm wrong -- is data fields in the database --
8 in the membership database.

9 THE COURT: Correct. Not --

10 MS. KALLMAN: That's a new discovery request.

11 THE COURT: Pardon me?

12 MS. KALLMAN: That's a new discovery request.

13 That's never been asked for, never been ordered. Not sure
14 what to do about -- and why that's --

15 THE COURT: Is that true?

16 MR. LONG: Your Honor has never been asked -- or
17 I'm the first lawyer to discover that they have a database
18 which includes like whether dues have been paid, how current
19 they are, what their age is, whether they're over a hundred
20 years old or not. There's a lot of information, if I could
21 look at the -- I don't know what all the fields are, but I
22 know what some of them are. In fact, I could provide Your
23 Honor --

24 THE COURT: Mr. Long, I don't think I can continue
25 to order these people to do things just because new counsel

1 come into the picture and come up with new ideas. The
2 discovery deadline has passed.

3 MR. LONG: Your Honor, I completely understand
4 that. I would just submit to the Court that I think that
5 counsel before me was unaware, and it's only been through
6 sworn testimony that I've been able to discover that indeed
7 there is this national database and it has these fields in
8 it.

9 And what I also discovered, Your Honor, is that the
10 membership coupons that Your Honor did order be produced
11 came from that database. In other words, they were
12 produced, they're not actually in a readable format, I can't
13 look at them -- 10,000 of them and when using any form of
14 automation -- they have offered to give me a PDF, but if
15 they would just give me access to the nonpersonal
16 identifiers for my expert, data, that we would be able to
17 have everything we need to show what the truth is about
18 this.

19 THE COURT: Okay. His comment -- setting aside the
20 discovery is closed, and he's representing that this wasn't
21 discoverable before -- and I don't know the answer to
22 that -- what's your objection to it? Why are you making an
23 issue out of it?

24 MS. KALLMAN: Your Honor, first of all, this
25 discussion has happened with prior counsel, with Mr. Vail

1 specifically. We have had lengthy discussions about what
2 this database is, what information it collects. It's
3 information that has HIPAA -- it's a database
4 collecting HIPAA information and Mr. Vail fully is aware of
5 this. The --

6 THE COURT: Mr. Vail has been gone from the case
7 for a long time.

8 MS. KALLMAN: No, I know, Your Honor.

9 THE COURT: You keep invoking Mr. Vail. That poor
10 guy. He had a medical problem, maybe as a result of this
11 case, who knows.

12 MS. KALLMAN: Well, I'm happy to let the Court know
13 Mr. Vail is fine and he's practicing with a firm in town.

14 But --

15 THE COURT: Well, good to know.

16 MS. KALLMAN: -- Your Honor, to say that this is a
17 brand-new issue because counsel just discovered, that's
18 point 1, as far as timing.

19 THE COURT: Okay.

20 MS. KALLMAN: Point 2 is, if I may, Your Honor, if
21 somebody walked in during counsel's argument just a few
22 minutes ago, do you think they would be even -- and have an
23 idea what this case is about? Is this about a vendor or
24 website services, an alleged breach of contract or
25 promissory estoppel or misappropriation of trade secrets?

1 We've spent all this conversation talking about
2 membership, talking about data fields in a membership
3 database of 1.9 million members, and financial secretaries.
4 We talk about everything but breach of contract. And all of
5 this --

6 THE COURT: Well, your colleague over here has been
7 very consistent in telling me every time we've had a hearing
8 that this is just a breach of contract case, but I'm not
9 sure that I've ever agreed with that or that I agree with it
10 now. I agree with you on RICO.

11 Here's what I think the case is about, just based
12 on the fact that you people come back to my court time and
13 again, so I have to pick up something about it: This guy,
14 Labriola, a guy who can't keep his mouth shut when it comes
15 to mediation, finally had the biggest coup in the history of
16 his career. He was going to be the man and provide the
17 system for all of the Knights of Columbus. And if that had
18 worked out for him, he'd be sipping umbrella drinks in
19 Jamaica now, retired.

20 He claims that he had a deal and that at the last
21 minute the Knights of Columbus pulled out. And he's
22 claiming that the Knights of Columbus not only pulled out of
23 the deal, but they stole his system. They sent their IT
24 guys down purportedly to make for a smooth transition and,
25 in fact, to dig into the computer technology and figure out

1 how he did it and then steal it.

2 So it's a contract case, I think, and a theft of
3 trade secrets case. That's basically what it is.

4 MS. KALLMAN: We don't disagree, Your Honor.

5 THE COURT: And the reason we have this insatiable
6 thirst to get this membership information is because they
7 think that's where the root of all evil lies, that Labriola
8 discovered that the Knights of Columbus were phonying up
9 insurance documents to get good insurance ratings. And the
10 way he would -- they were doing it is false membership
11 numbers. And it was because Labriola figured this out and
12 the system would have made it plain for all to see, that the
13 Knights decided we better not do business with this guy
14 because it's a little bit like the priests in the Catholic
15 church, it's a secret they didn't want to let out. That's
16 their theory.

17 As far as I'm concerned, it might be full of beans,
18 I don't know. But that's their theory. That's why they
19 want this stuff.

20 MS. KALLMAN: So if I may --

21 THE COURT: And I thought that I was ordering that
22 they could have it. Maybe not the data fields. I don't
23 remember that coming up before.

24 MS. KALLMAN: Right. But here is the -- here is
25 where we are, Your Honor: When the first -- the case first

1 started, the RICO claim, all the bombastic allegations,
2 et cetera, that theory perhaps was entitled to some credence
3 because it's -- in the beginning, they have alleged just
4 enough to get discovery, et cetera.

5 Now we are two months before the final pretrial
6 conference, and to this date there has been absolutely zero
7 evidence that UKnight was discovering, was about to
8 discover, was -- had the means to discover, any -- any of
9 this alleged membership fraud.

10 THE COURT: Well, Mr. Long disagrees with you. But
11 let's get back to the point. My question that you haven't
12 answered yet is: What is wrong with getting these data
13 fields? Is it a major task or is it something that your IT
14 guy can give their IT guy with your say-so in five minutes?

15 MS. KALLMAN: It's probably the latter, Your Honor.
16 However, as Mr. Long said, this is the beginning of yet
17 another inquiry. Let's look at the fields and let's see
18 what else we want.

19 So our -- our submission to the Court today is
20 where does it stop so we can finally finish discovery and
21 prepare for trial?

22 THE COURT: All right. The Court orders that you
23 produce the data fields, and it stops there on that issue.

24 MS. KALLMAN: Your Honor, if I -- if I may, I would
25 like to make a couple of more points about relevance at this

1 hour, basically two months before final pretrial conference.
2 And the key point there is that Mr. Labriola, as a 30(b)(6)
3 designee on the allegations in the complaint, testified that
4 he did not have any information, any basis, for claiming
5 that UKnight would be discovering this alleged membership
6 fraud.

7 THE COURT: Okay. Let's go on to point No. 3,
8 please.

9 MS. KALLMAN: Point No. 3. Any --

10 THE COURT: Annual report from the auditors for
11 2017 and 2018.

12 MS. KALLMAN: This is the first we hear about it.
13 We did not confer about this either. I double-checked my
14 notes on counsel's e-mail. Not sure what that's about --

15 THE COURT: Well, it didn't even end there. He
16 then went on to say management reports and presentations to
17 the board regarding membership by -- is inflated by 20 or 40
18 percent and he thinks, I guess, that the annual report of
19 the auditors will show that.

20 MS. KALLMAN: Your Honor, this is the first we hear
21 about it. Again, we maintain it's not relevant, it's --

22 THE COURT: It might be, but it's easy to turn
23 over --

24 MS. KALLMAN: I don't know what they are. I need
25 to check with -- confer with my client to even know what

1 these management reports are, what management reports, to
2 whom, how open they're --

3 THE COURT: It's an annual report of the
4 auditors.

5 MS. KALIMAN: Don't know what this is, Your Honor,
6 I apologize. I will have to confer with client.

7 THE COURT: Well, what is it?

8 MR. LONG: It's an annual report. I learned it
9 from the regulator that we hired, Your Honor, who said it's
10 provided to the board of directors, and it's based on that
11 that the board of directors make their statement to the
12 regulators and to regulating agencies concerning the
13 membership issues. So we --

14 THE COURT: So it's an audit.

15 MR. LONG: It's an audit report, yes, sir. It's --
16 I don't know if it's a -- if it's a full-fledged report, but
17 I do know that it is their auditor and that's an external
18 entity --

19 THE COURT: Some accounting firm.

20 MR. LONG: -- firm in New Haven. And I used to
21 know the name of it, but it's slipping my mind right at the
22 moment. But they do that -- they provide that to the board.
23 And it's based on that that the board authorizes the
24 representations that are made to the regulating agencies and
25 the regulators.

1 THE COURT: Okay. Isn't it public information?

2 MR. LONG: It is not and I'm surprised. I thought
3 it would be. There is quite a bit that our regulator has
4 been able to get from public, but that is not public, Your
5 Honor, we -- I've been told. She specifically asked for
6 that and I'm surprised.

7 THE COURT: I'm surprised that that isn't public
8 information.

9 MR. LONG: And I have nothing else to know other
10 than what she told me.

11 THE COURT: Corporations' audit reports are
12 public.

13 MR. LONG: They do, Your Honor, and, you know, we
14 did ask her, if there's anything we want to ask the Court
15 for is something we can't get publicly.

16 MS. KALLMAN: Your Honor, what is the relevance of
17 this? Now are we going to litigate all of this instead of
18 whether there was a contract and whether there was a breach?

19 THE COURT: Is that your objection? That it's --

20 MS. KALLMAN: Our objection is it's entirely
21 irrelevant. Is this proportional --

22 THE COURT: The objection's overruled. The Court
23 orders that you produce the two audit reports.

24 Now we're going to get down into things where you
25 might fare a little better.

1 MS. KALLMAN: Sorry, Your Honor, just to clarify,
2 just the auditor reports, not this management report, I'm
3 assuming --

4 THE COURT: Correct.

5 MS. KALLMAN: -- I don't even know what they are.

6 THE COURT: Just the annual report for the auditors
7 for 2017 and 2018 report to the Knights of Columbus board.
8 Now, 30(b)(6) deposition of Knights of Columbus. I am
9 astonished that that hasn't already happened.

10 MS. KALLMAN: Oh, there has happened a number of
11 30(b)(6) depositions depending on designees, but they are
12 expanding now into retention and billing practices,
13 actuarial analyses, overall financial condition of the
14 insurance company. We are right back to where we started
15 with RICO, Your Honor.

16 THE COURT: Mr. Long, I don't understand how you
17 justify wanting more 30(b)(6) depositions after two years of
18 litigation.

19 MR. LONG: Just one second, Your Honor. I respect
20 the Court's question. Well, Your Honor, I apologize. It's
21 my impression that the plaintiff -- there have been many
22 30(b)(6) depositions they've done of our client. I'm not
23 aware that a 30(b)(6) deposition -- I respect that if
24 defense counsel says there was, I did not know that. But --

25 THE COURT: Okay.

1 MR. LONG: -- I will say this: The 30(b)(6) that
2 we're seeking here is limited to all -- all I'm asking for
3 today -- we may have conferred and suggested more topics --
4 but all I'm asking for today are two things in that
5 30(b)(6): Someone who can explain these membership coupons
6 to me, because, despite the fact I can tell certain things
7 about them -- for example, I see this council that -- and
8 several that I would call phantom councils, but what I don't
9 know is what all that really means.

10 And so what I want -- I want to ask only about two
11 things: One, to explain these membership coupons that the
12 Court ordered produced and were produced last year, there
13 are over 10,000 of them. I'm not able to access them in any
14 automated way at the moment, but we're working with counsel,
15 and I believe we're going to be able to solve that problem.
16 They came from the same database that we're asking for the
17 fields of --

18 THE COURT: What's the second --

19 MR. LONG: The second thing is retention and
20 billing practices. This has to do with -- what I mean by
21 that is how you retain members; how you drop members who
22 have died or are no longer members; and how you bill for
23 dues and collect dues from the councils; and how the members
24 pay their dues.

25 THE COURT: Okay.

1 MR. LONG: So getting to the bottom of what those
2 are about. That's all I'm asking for.

3 THE COURT: Now, Mr. Long hasn't been around. Have
4 there been 30(b)(6) depositions of the Knights?

5 MS. KALLMAN: There have been several, Your Honor.
6 And Mr. Gleason was there, so he could -- he could tell you
7 the exact number. Not on these topics for the record, Your
8 Honor, but there have been several 30(b)(6) based on the
9 topics we designated various representatives.

10 THE COURT: Mr. Gleason.

11 MR. GLEASON: Your Honor, if I may, when we were at
12 the status conference in the very beginning of the case,
13 early on Mr. Vail served a 30(b)(6) notice and the notice
14 had 18, 20 topics, something like that, which included RICO
15 topics, the membership and insurance.

16 I came -- was in your chambers with a -- I
17 highlighted in yellow topics that we felt were inappropriate
18 given a motion to dismiss the RICO claim that we had
19 pending. And at the status conference Your Honor ruled that
20 they -- that those topics could not go -- could not be gone
21 into by plaintiff until after the Court ruled on the motion
22 to dismiss on RICO.

23 So I think it's accurate to say, I could be more
24 specific, I've got a -- both the transcript of the status
25 conference and that notice with the highlights on my iPad,

1 but the -- so the -- all this time there has been no
2 discovery on the membership or insurance topics that were
3 included in that notice.

4 There -- we -- there have been -- the remaining
5 topics in February -- or, no, it will be last -- last
6 September -- I could be off -- but last year sometime with
7 prior counsel, the 30(b)(6) depositions, I think we had
8 three or four designees, the Knights of Columbus testified
9 on various 30(b)(6) -- it was last April, because Mr. Vail
10 conducted those depositions -- the remaining topics, those
11 30(b)(6) depositions have taken place.

12 THE COURT: How many?

13 MR. GLEASON: There were -- there were four,
14 although that's a little misleading. I think -- again, I've
15 got to write -- I could be real precise by pulling it up on
16 my iPad, but there were several topics dealing with the
17 contract, dealings with Mr. Labriola, UKnight, how all this
18 worked. We had one witness named Bill Murray who testified
19 about the majority of the topics.

20 They had a couple of topics; for example, they had
21 a theory that we had promised to announce at a November 2013
22 State Deputy Meeting in Quebec that we made a promise to
23 announce UKnight as the preferred vendor at that conference.
24 One of the topics was all planning and agendas and so forth
25 for that conference.

1 We had the person who organized the conference
2 testified on that topic. And there was another topic,
3 at least -- oh, one was nature and organization of the
4 Knights of Columbus, how it all works. And we had -- we had
5 an individual testify on that, so . . .

6 THE COURT: Okay.

7 MR. GLEASON: That's what's gone on in terms of
8 30(b)(6).

9 THE COURT: Thank you for that, Mr. Gleason.
10 So, Ms. Kallman, what's the objection to the
11 30(b)(6) on a subject that was not permitted before?

12 MS. KALLMAN: Discovery has closed. When Your
13 Honor entered an order November 16 -- discovery closed
14 November 16, 2018. By then all written discovery was closed
15 and certain number of depositions were already agreed on and
16 scheduled and had to be rescheduled.

17 And Your Honor by order said those who had already
18 been set can be basically rescheduled, but other than that
19 no additional discovery. And we maintain our relevance
20 objection.

21 THE COURT: I said that?

22 MS. KALLMAN: Yes, Your Honor. That's the way we
23 understand the order.

24 THE COURT: If I said that, then why are we talking
25 about it?

1 MS. KALLMAN: I don't know, Your Honor, frankly.
2 That was our response --

3 THE COURT: So as an officer of the Court you're
4 saying I said no more depositions?

5 MS. KALLMAN: You said those depositions that
6 were -- the discovery is closed, those depositions that are
7 currently scheduled are stayed until new counsel starts --
8 you have the -- Your Honor, I'm happy to read from the
9 Court's order.

10 Stay all currently set depositions during that
11 time. Court requests that replacement counsel enter an
12 appearance within 60 days. And that was October 10, Your
13 Honor. That's what I have. But discovery deadline was
14 November 16, 2018, and it has --

15 THE COURT: What did I say about depositions,
16 though? That's what I want to know.

17 MS. KALLMAN: Those that were -- you said --

18 THE COURT: Don't paraphrase, just read --

19 MS. KALLMAN: No, I'm going to read the whole
20 thing. Order granting unopposed motion to withdraw as
21 attorney. Attorney Joshua Frederick Bugos, Stephen Eric
22 Csajaghy is withdrawn. The Court requests that replacement
23 counsel enter an appearance within 60 days and will stay all
24 currently set depositions during that time. That's it.

25 THE COURT: That doesn't say anything about no more

1 depositions.

2 MS. KALLMAN: It does not. There was another order
3 about extending discovery deadline to November 16, but
4 that's why I wanted to make sure I stated it right, Your
5 Honor.

6 MR. GLEASON: There was an order -- again, I'll be
7 precise, Your Honor. There was an order entered -- I'll
8 read from this order. It's document No. 139, dated
9 September 27, 2018. Order granting joint motion to
10 amend/correct/modify order on motion to amend/correct/modify
11 scheduling order, and extend certain pretrial deadlines.
12 Case deadlines are extended as follows: No. 1: Fact
13 discovery (depositions and subpoenas) from 9-28-18 to
14 11-16-18. And then there were other deadlines not pertinent
15 here.

16 THE COURT: All right. Mr. Long, what's your
17 response? That's what I said.

18 MR. LONG: Yes, Your Honor. This whole issue --
19 all I can say, Your Honor, is this issue about membership
20 coupons comes up after Mr. Csajaghy, and I'm just trying to
21 get a full explanation of what they have given us.

22 THE COURT: Okay.

23 MR. LONG: And so I don't -- I guess I'm asking for
24 special permission to take a very limited deposition, which
25 I would be happy to -- you know, to do whatever I can to try

1 and not be a burden to opposing counsel and their client,
2 but I would like an explanation of those two subjects.

3 THE COURT: Well, you gave me three subjects, Mr.
4 Long. You said membership coupons, retention of members,
5 and billing practices.

6 MR. LONG: I was thinking of the two -- the last
7 two, so I'm sorry, Your Honor. I guess I thought -- I had
8 it on my notes as retention and billing practices.

9 THE COURT: Who would be the witness that would be
10 designated for those topics, Ms. Kallman?

11 MS. KALLMAN: Your Honor, on top of my head, I
12 would have to think. It may be more than one person at the
13 Knights. There is a membership side and then there is a --
14 I guess it's all related to membership. So it could be
15 probably just one person. I can't think of who that is at
16 the moment.

17 THE COURT: Will that person be present at trial
18 and subject to cross-examination?

19 MS. KALLMAN: I suspect so. I mean, if -- it's
20 probably -- and, again, I don't want to make representations
21 that I don't know a hundred percent, but it probably will be
22 Mr. St. John and he will probably be here, but I will need
23 to check that.

24 THE COURT: All right. The Court's order will be
25 that either the Knights produce 30(b)(6) witnesses to

1 testify about membership -- to explain membership coupons,
2 retention in members practices, and billing practices, or
3 persons knowledgeable of those topics be produced for
4 cross-examination at trial -- identified and produced.

5 In other words, you would identify who the people
6 are that the company would have designated had it been
7 timely and you produce them for trial.

8 MS. KALLMAN: Understood, Your Honor.

9 THE COURT: Now what about these fact witnesses?

10 MS. KALLMAN: We heard about them about 12:35
11 today. Again, we maintain that this is irrelevant and these
12 are all just on membership issues, irrelevant,
13 disproportionate. We are talking about five depositions
14 from -- in Alabama, Texas, Colorado and Illinois.

15 THE COURT: I only wrote down four, I must have
16 missed one. McFee, Fernandez, Paul somebody, and Martinez.

17 MS. KALLMAN: There was -- on my list that we got
18 from counsel earlier today, Your Honor, is also somebody
19 named Gregory Schuring in Illinois.

20 And that's S-c-h-u-r-i-n-g, for the court reporter.

21 MR. LONG: And I purposefully deleted that name,
22 Your Honor. So it is true that when we sent our conference
23 this morning -- or noon, when we finally made a decision
24 this morning on how -- which ones we wanted, we did put five
25 in that list, but I took one off as I was here recognizing

1 the --

2 THE COURT: But you're saying this is not
3 discovery, this is preservation?

4 MR. LONG: Basically preservation. This is -- I
5 would only play these if I can't get the witness to come
6 live.

7 THE COURT: No, that's not good enough. I'll
8 authorize you to take the four depositions if, and only if,
9 they will not voluntarily appear.

10 MR. LONG: Okay.

11 THE COURT: And if you take the depositions, I will
12 order that you pay the expenses for travel, lodging, hotel,
13 et cetera, of opposing counsel to get there.

14 MR. LONG: Okay, Your Honor. And on the -- if they
15 won't come, would it be something in writing from the
16 witness that indicates that they won't voluntarily appear be
17 adequate for the Court?

18 THE COURT: Your word is adequate for the Court.

19 MR. LONG: Okay, I'll be happy to do that. Thank
20 you, Your Honor.

21 THE COURT: If they will come -- because you can
22 talk to them without these people even being involved.

23 MR. LONG: Agreed.

24 THE COURT: And if they're willing to come because
25 you're such a charmer and you can talk the birds out of the

1 trees, then good for you. No deposition.

2 MR. LONG: Yes, sir. I'll do my very best.

3 THE COURT: If they're saying they won't come, and
4 I would assume you'd rather have them here or not --

5 MR. LONG: I would.

6 THE COURT: -- if they say they won't come, you
7 can take their deposition if you want to, but you pay their
8 airfare, lodging, and meals.

9 MR. LONG: Thank you, Your Honor.

10 MS. KALLMAN: Your Honor, if I may request that the
11 Court set a drop-dead discovery deadline, if at all
12 possible, so we know at which point he cannot have this
13 conversation again, I think that will be helpful.

14 THE COURT: When's the trial preparation
15 conference?

16 MS. KALLMAN: July 25th, I believe, Your Honor.
17 I'm sorry, I think I referred to pretrial conference as
18 trial preparation.

19 THE COURT: Okay. We'll say the drop-dead date is
20 June 24th.

21 MS. KALLMAN: June 24th?

22 THE COURT: Even Mr. Long won't be able to talk me
23 into anything after that date.

24 MS. KALLMAN: May I --

25 THE COURT: Are you folks still talking about

1 settlement or is that cratered because of Mr. Labriola's
2 inappropriate conduct?

3 MS. KALLMAN: Largely the latter, Your Honor,
4 although we are certainly always open to entertain any
5 reasonable offers.

6 THE COURT: Oh, man. She knows the company line,
7 right?

8 MS. KALLMAN: May I confer with Mr. --

9 THE COURT: It takes two to tango. It takes two to
10 tango. I know that Labriola has scotched the deal, but, my
11 God, do the Knights of Columbus really want to air all their
12 dirty laundry in public? I know you would tell me they
13 don't have any dirty laundry.

14 MS. KALLMAN: May I have a moment, Your Honor, with
15 Mr. Gleason?

16 MR. GLEASON: If I could just add, I think I've
17 said so before, we -- we can represent to the Court that Mr.
18 Long and I have not had any settlement discussions since
19 he's entered the case. I think that's correct.

20 MR. LONG: That's correct.

21 MR. GLEASON: But we're all ears, I think he is,
22 too. And I think we'd rather settle this than have to go to
23 a trial. So if there's a way to get it worked out -- and it
24 certainly didn't help with what the Court read about Mr.
25 Labriola, but I don't think that anybody's --

1 MR. LONG: No.

2 MR. GLEASON: -- drawn any lines and said because
3 of that we'll never talk settlement again.

4 THE COURT: I -- the reason I raised the subject
5 is -- and I don't want Mr. Long to feel like he's being
6 flattered. I don't want his head to get any bigger than it
7 is already, but you've got solid, experienced litigation
8 counsel on the other side now. He's not going away. And
9 that might be a good reason to revisit this subject. Just
10 thinking. Anything else?

11 MR. LONG: No, Your Honor. Thank you.

12 MS. KALLMAN: May I have a moment, Your Honor?

13 THE COURT: Sure.

14 MS. KALLMAN: Nothing here, Your Honor.

15 THE COURT: Okay.

16 MR. LONG: Thank you, Your Honor.

17 THE COURT: Thank you.

18 (Proceedings concluded at 3:01 p.m.)

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20 REPORTER'S CERTIFICATE

21 I certify that the foregoing is a correct transcript from
22 the record of proceedings in the above-entitled matter.
23 Dated at Denver, Colorado, this 20th day of May, 2019.

24 

25 MARY J. GEORGE, FCRR, CRR, RMR